



PRELIMINARY DRAFT

No. 3159

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2011 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 5-10-5.5-1; IC 33-38; IC 33-39-7; IC 36-8-8-8.

Synopsis: PERF administrative matters. PERF/TRF Proposal #11. Requires that the board of trustees of the public employees' retirement fund (PERF) specify by rule the interest rate credited to a participant's contributions for: (1) the state excise police, gaming agent, gaming control officer, and conservation enforcement officers' retirement fund; (2) the judges' retirement system; (3) the prosecuting attorneys' retirement fund; and (4) the 1977 police officers' and firefighters' pension and disability fund.

Effective: July 1, 2011.



A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-10-5.5-1, AS AMENDED BY P.L.227-2007, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. As used in this chapter and unless the context clearly denotes otherwise:

(a) "Department" means the Indiana department of natural resources.

(b) "Commission" means the alcohol and tobacco commission.

(c) "Officer" means any Indiana state excise police officer, any Indiana state conservation enforcement officer, any gaming agent, or any gaming control officer.

(d) "Participant" means any officer who has elected to participate in the retirement plan created by this chapter.

(e) "Salary" means the total compensation, exclusive of expense allowances, paid to any officer by the department or the commission, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.

(f) "Average annual salary" means the average annual salary of an officer during the five (5) years of highest annual salary in the ten (10) years immediately preceding an officer's retirement date, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.

(g) "Public employees' retirement act" means IC 5-10.3.

(h) "Public employees' retirement fund" means the public employees' retirement fund created by IC 5-10.3-2.

(i) "Interest" means the ~~same~~ rate of interest ~~as is specified under by rule by the board of trustees of the public employees' retirement law.~~ **fund.**

(j) "Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the Act.

(k) Other words and phrases when used in this chapter shall, for the



purposes of this chapter, have the meanings respectively ascribed to them as set forth in IC 5-10.3-1.

SECTION 2. IC 33-38-7-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. (a) Except as otherwise provided in this chapter, a participant:

(1) whose employment as a judge is terminated regardless of cause; and

(2) who has less than twelve (12) years service;

is entitled to withdraw from the fund, beginning on the date specified by the participant in a written application. However, the date on which the withdrawal begins may not be before the date of final termination of employment of the participant, or the date thirty (30) days before the receipt of the application by the board.

(b) Upon the withdrawal, a participant is entitled to receive out of the fund an amount equal to the total sum contributed to the fund on behalf of the participant **plus interest at a rate specified by rule by the board**, payable within sixty (60) days after date of the withdrawal application or in monthly installments as the participant may elect.

SECTION 3. IC 33-38-7-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 14. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 16 of this chapter.

(b) If annuities are not payable to the survivors of a participant who dies after July 1, 1983, the surviving spouse or child or children of the participant, if any, as determined by the participant, and if none survive, then any dependent or dependents surviving shall draw from the fund the amount that the participant paid into the fund **plus interest as determined at a rate specified by rule** by the board. If no spouse, child or children, or other dependents survive, then the amount, **plus interest at a rate specified by rule by the board and** minus any payments made to the participant, shall be paid to the executor or administrator of the participant's estate.

(c) The amount owed a spouse, child or children, or other dependent, or estate under this section is payable within sixty (60) days after date of the withdrawal application or in the monthly installments as the recipient may elect.

SECTION 4. IC 33-38-8-12, AS AMENDED BY P.L.122-2008, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 12. (a) A participant who:

(1) ceases service:

(A) as a judge; or

(B) after December 31, 2010, as a judge or full-time magistrate;

other than by death or disability; and

(2) is not eligible for a retirement benefit under this chapter;

is entitled to withdraw from the fund, beginning on the date specified



by the participant in a written application. The date on which the withdrawal begins may not be before the date of final termination of employment or the date thirty (30) days before the receipt of the application by the board.

(b) Upon the withdrawal, the participant is entitled to receive the total sum contributed **plus interest at a rate specified by rule by the board**, payable within sixty (60) days from the date of the withdrawal application or in monthly installments as the participant may elect.

SECTION 5. IC 33-38-8-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 19. (a) Benefits provided under this section are subject to IC 33-38-6-13.

(b) If benefits are not payable to the survivors of a participant who dies, and if a withdrawal application is filed with the board, the total of the participant's contributions, plus interest ~~as determined at a rate specified by rule~~ by the board **and** minus any payments made to the participant, shall be paid to:

(1) the surviving spouse of the participant or a child or children of the participant, as designated by the participant;

(2) any other dependent or dependents of the participant, if a spouse or designated child or children does or do not survive; or

(3) the participant's estate, if a spouse, designated child or children, or other dependent does or do not survive.

(c) The amount owed a spouse, designated child or children, or other dependent or dependents, or estate under subsection (b) is payable within sixty (60) days from the date of receipt of the withdrawal application or in the monthly installments as the recipient elects.

SECTION 6. IC 33-39-7-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. (a) A participant who:

(1) ceases service in a position described in section 8 of this chapter, other than by death or disability; and

(2) is not eligible for a retirement benefit under this chapter;

is entitled to withdraw from the fund, beginning on the date specified by the participant in a written application. The date upon which the withdrawal begins may not be before the date of final termination of employment or the date thirty (30) days before the receipt of the application by the board. Upon withdrawal the participant is entitled to receive the total sum contributed plus interest at ~~the a rate of five and one-half percent (5.5%) compounded annually~~ **specified by rule by the board**, payable not later than sixty (60) days from the date of the withdrawal application.

(b) Notwithstanding section 8 of this chapter, a participant who withdraws from the fund under subsection (a) and becomes a participant again at a later date is not entitled to service credit for years of service before the withdrawal.



SECTION 7. IC 33-39-7-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 14. (a) Interest shall be credited annually on June 30 at ~~the a rate of five and one-half percent (5.5%)~~ **specified by rule by the board** on all amounts credited to the member as of June 30 of the preceding year.

(b) Contributions begin to accumulate interest at the beginning of the fiscal year after the year in which the contributions are due.

(c) When a member retires or withdraws, a proportional interest credit determined under this chapter shall be paid for the period elapsed since the last date on which interest was credited.

SECTION 8. IC 33-39-7-16, AS AMENDED BY P.L.33-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 16. (a) This section does not apply to a participant who meets the requirements for disability benefits under section 17 of this chapter.

(b) Except as provided in subsections (c) and (d), the amount of the annual retirement benefit to which a participant who applies for a retirement benefit and who is at least sixty-five (65) years of age is entitled equals the product of:

- (1) the highest annual salary that was paid to the participant before separation from service; multiplied by
- (2) the percentage prescribed in the following table:

Participant's Years of Service	Percentage
Less than 8	0
8	24%
9	27%
10	30%
11	33%
12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%
22 or more	60%

(c) If a participant who applies for a retirement benefit is not at least sixty-five (65) years of age, the participant is entitled to receive a reduced annual retirement benefit that equals the benefit that would be payable if the participant were sixty-five (65) years of age reduced by one-fourth percent (0.25%) for each month that the participant's age at retirement precedes the participant's sixty-fifth birthday.



(d) Benefits payable to a participant under this section are reduced by the pension, if any, that would be payable to the participant from the public employees' retirement fund if the participant had retired from the public employees' retirement fund on the date of the participant's retirement from the prosecuting attorneys retirement fund. Benefits payable to a participant under this section are not reduced by annuity payments made to the participant from the public employees' retirement fund.

(e) If benefits payable from the public employees' retirement fund exceed the benefits payable from the prosecuting attorneys retirement fund, the participant is entitled at retirement to withdraw from the prosecuting attorneys retirement fund the total sum contributed plus interest at ~~the a rate of five and one-half percent (5.5%) compounded annually;~~ **specified by rule by the board.**

SECTION 9. IC 33-39-7-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 21. (a) If benefits are not payable to the survivors of a participant who dies, and if a withdrawal application is filed with the board by the survivors or the participant's estate, the total of the participant's contributions, plus interest at ~~the a rate of five and one-half percent (5.5%) compounded annually;~~ **specified by rule by the board and** minus any payments made to the participant, shall be paid to:

- (1) the surviving spouse of the participant;
- (2) any dependent or dependents of the participant, if a spouse does not survive; or
- (3) the participant's estate, if a spouse or dependent does not survive.

(b) The amount owed a spouse, dependent or dependents, or estate under subsection (a) is payable not later than sixty (60) days after the date of receipt of the withdrawal application.

SECTION 10. IC 36-8-8-8, AS AMENDED BY P.L.180-2007, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. (a) Each fund member shall contribute during the period of the fund member's employment or for thirty-two (32) years, whichever is shorter, an amount equal to six percent (6%) of the salary of a first class patrolman or firefighter. However, the employer may pay all or a part of the contribution for the member. The amount of the contribution, other than contributions paid on behalf of a member, shall be deducted each pay period from each fund member's salary by the disbursing officer of the employer. The employer shall send to the PERF board each year on March 31, June 30, September 30, and December 31, for the calendar quarters ending on those dates, a certified list of fund members and a warrant issued by the employer for the total amount deducted for fund members' contributions.

(b) Except as provided in section 7.2 of this chapter, if a fund member ends the fund member's employment other than by death or



1 disability before the fund member completes twenty (20) years of
2 active service, the PERF board shall return to the fund member in a
3 lump sum the fund member's contributions plus interest ~~as determined~~
4 **at a rate specified by rule** by the PERF board. If the fund member
5 returns to service, the fund member is entitled to credit for the years of
6 service for which the fund member's contributions were refunded if the
7 fund member repays the amount refunded to the fund member in either
8 a lump sum or a series of payments determined by the PERF board.

